

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JESSE PEOPLES,

Petitioner,

v.

NOAH NAGY,

Respondent.

Case No. 2:19-CV-13669

HONORABLE SEAN F. COX

**OPINION AND ORDER DENYING THE MOTION TO REINSTATE THE PETITION
FOR A WRIT OF HABEAS CORPUS (ECF No. 18)**

Jesse Peoples, (“Petitioner”), filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his convictions for second-degree murder, Mich. Comp. Laws § 750.317, felon in possession of a firearm, Mich. Comp. Laws § 750.224f, and possession of a firearm in the commission of a felony, Mich. Comp. Laws § 750.227b. This Court summarily dismissed petitioner’s habeas application without prejudice on the ground that petitioner failed to exhaust his claims with the state courts. This Court also declined to hold the petition in abeyance pending petitioner’s return to the state courts because petitioner failed to allege cause for failing to exhaust his claims prior to filing his habeas petition. *Peoples v. Nagy*, No. 2:19-CV-13669, 2020 WL 5411339 (E.D. Mich. Sept. 9, 2020).

Petitioner has now filed a letter (ECF No. 18) which is construed as a motion to reinstate the original petition for a writ of habeas corpus.

This Court is without the power to reinstate petitioner’s original habeas petition that had previously been filed before this Court. This Court did not retain jurisdiction over petitioner’s first

habeas petition which was dismissed without prejudice based upon petitioner's failure to exhaust his claims with the state courts, in the absence of any express retention of jurisdiction over the first petition. *See Lefkowitz v. Fair*, 816 F.2d 17, 21 (1st Cir. 1987). Because this Court did not expressly retain jurisdiction over the first petition, this Court will deny petitioner's motion to reinstate the original habeas petition to the Court's active docket. *See Wilson v. Warren*, No. 06-CV-15508, 2008 WL 5273633, *1 (E.D. Mich. Dec. 17, 2008). The denial of the motion is without prejudice to petitioner filing a petition for a writ of habeas corpus with the federal district court under a new case number.

Accordingly, the motion to reinstate the habeas petition (ECF No. 18) is **DENIED WITHOUT PREJUDICE** to petitioner filing a petition for a writ of habeas corpus with the federal district court under a new case number.

Dated: September 23, 2022

s/Sean F. Cox
Sean F. Cox
U. S. District Judge